

REFERENCE TITLE: vehicle immobilization; impoundment; release

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2851

Introduced by
Representatives Gallardo, Sinema: Prezelski

AN ACT

AMENDING SECTION 28-3512, ARIZONA REVISED STATUTES; RELATING TO THE
IMMOBILIZATION AND IMPOUNDMENT OF VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-3512, Arizona Revised Statutes, is amended to
3 read:

4 28-3512. Release of vehicle; definition

5 A. An immobilizing or impounding agency shall release a vehicle to the
6 owner before the end of the thirty day immobilization or impoundment period
7 under any of the following circumstances:

8 1. If the vehicle is a stolen vehicle.

9 2. If the vehicle is subject to bailment and is driven by an employee
10 of a business establishment, including a parking service or repair garage,
11 who is subject to section 28-3511, subsection A, ~~or~~ B or C.

12 3. If the owner presents proof satisfactory to the immobilizing or
13 impounding agency that the owner's driving privilege has been reinstated.

14 4. All of the following apply:

15 (a) The owner or the owner's agent was not the person driving the
16 vehicle pursuant to section 28-3511, subsection A.

17 (b) The owner or the owner's agent is in the business of renting motor
18 vehicles without drivers.

19 (c) The vehicle is registered pursuant to section 28-2166.

20 5. For the spouse ~~OR AGENT~~ of the owner or any person who is
21 identified as an owner of the vehicle on the records of the department, if
22 the spouse, ~~AGENT~~ or person was not the driver of the vehicle at the time of
23 removal and either immobilization or impoundment and the spouse, ~~AGENT~~ or
24 person enters into an agreement with the immobilizing or impounding agency
25 that stipulates that if the spouse, ~~AGENT~~ or person allows an unlicensed
26 driver or a driver arrested in violation of section 4-244, paragraph 33 or
27 section 28-1382 or 28-1383 to drive the spouse's, ~~AGENT'S~~ or person's vehicle
28 within one year after the agreement is signed, the spouse, ~~AGENT~~ or person
29 will not be eligible to obtain release of the spouse's, ~~AGENT'S~~ or person's
30 vehicle before the end of the thirty day immobilization or impoundment
31 period.

32 B. A vehicle shall not be released pursuant to subsection A of this
33 section except on order of a justice court, immobilizing agency or impounding
34 agency pursuant to an immobilization or a poststorage hearing under section
35 28-3514 or on presentation of the owner's, ~~OWNER'S AGENT'S~~ or owner's
36 spouse's currently valid driver license to operate the vehicle and proof of
37 current vehicle registration and, if the driving privilege of the person
38 driving the vehicle was suspended due to a previous conviction for driving
39 under the influence pursuant to section 28-1381, subsection K, paragraph 4,
40 section 28-1382 or section 28-1383 and a certified ignition interlock device
41 was required to be installed on the vehicle, on presentation of proof of
42 installation of a functioning certified ignition interlock device in the
43 vehicle. The impounding agency, storage yard, facility, person or agency
44 having physical possession of the vehicle shall allow access to the impounded
45 vehicle for the purpose of installing a certified ignition interlock device.

1 The impounding agency, storage yard, facility, person or agency having
2 physical possession of the vehicle shall not charge a fee for providing
3 access to the vehicle or for the installation of the certified ignition
4 interlock device.

5 C. The owner is responsible for paying all immobilization, towing and
6 storage charges related to the immobilization or impoundment of the vehicle
7 and any administrative charges established pursuant to section 28-3513,
8 unless the vehicle is stolen and the theft was reported to the appropriate
9 law enforcement agency. If the vehicle is stolen and the theft was reported
10 to the appropriate law enforcement agency, the operator of the vehicle at the
11 time of immobilization or impoundment is responsible for all immobilization,
12 towing, storage and administrative charges.

13 D. The immobilizing or impounding agency shall release a vehicle to a
14 person, other than the owner, identified on the department's record as having
15 an interest in the vehicle before the end of the thirty day immobilization or
16 impoundment period if all of the following conditions are met:

17 1. The person is a motor vehicle dealer, bank, credit union or
18 acceptance corporation or any other licensed financial institution legally
19 operating in this state or is another person who is not the owner and who
20 holds a security interest in the vehicle.

21 2. The person pays all immobilization, towing and storage fees related
22 to the immobilization or impoundment of the vehicle unless the vehicle is
23 stolen and the theft was reported to the appropriate law enforcement agency.
24 If the vehicle is stolen and the theft was reported to the appropriate law
25 enforcement agency, the operator of the vehicle at the time of immobilization
26 or impoundment is responsible for all immobilization, towing, storage and
27 administrative charges.

28 3. The person presents foreclosure documents or an affidavit of
29 repossession of the vehicle.

30 E. Before a person described in subsection D of this section releases
31 the vehicle, the person may require the owner to pay charges that the person
32 incurred in connection with obtaining custody of the vehicle, including all
33 immobilization, towing and storage charges that are related to the
34 immobilization or impoundment of the vehicle and any administrative charges
35 that are established pursuant to section 28-3513.

36 F. A vehicle shall not be released after the end of the thirty day
37 immobilization or impoundment period except on presentation of the owner's or
38 owner's agent's currently valid driver license to operate the vehicle and
39 proof of current vehicle registration and, if the driving privilege of the
40 person driving the vehicle was suspended due to a previous conviction for
41 driving under the influence pursuant to section 28-1381, subsection K,
42 paragraph 4, section 28-1382 or section 28-1383 and a certified ignition
43 interlock device was required to be installed on the vehicle, on presentation
44 of proof of installation of a functioning certified ignition interlock device
45 in the vehicle. The impounding agency, storage yard, facility, person or

1 agency having physical possession of the vehicle shall allow access to the
2 impounded vehicle for the purpose of installing a certified ignition
3 interlock device. The impounding agency, storage yard, facility, person or
4 agency having physical possession of the vehicle shall not charge a fee for
5 providing access to the vehicle or for the installation of the certified
6 ignition interlock device.

7 G. The storage charges relating to the impoundment of a vehicle
8 pursuant to this section shall either:

9 1. Be subject to a contractual agreement between the impounding agency
10 and a towing firm for storage services pursuant to section 28-1108.

11 2. Not exceed fifteen dollars for each day of storage.

12 H. The immobilizing or impounding agency shall have no lien or
13 possessory interest in a stolen vehicle if the theft was reported to the
14 appropriate law enforcement agency. The immobilizing or impounding agency
15 shall release the vehicle to the owner or person other than the owner as
16 identified in subsection D of this section even if the operator at the time
17 of immobilization or impoundment has not paid all immobilization, towing,
18 storage and administrative fees.

19 I. For the purposes of this section, "certified ignition interlock
20 device" has the same meaning prescribed in section 28-1301.